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09/218,308	12/22/1998	CHRIS SERES		3278

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EXAMINER

NGUYEN, ANTHONY H

ART UNIT	PAPER NUMBER
	2854

DATE MAILED: 03/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/218,308

Applicant(s)

Chris Seres et al.

Examiner  
Anthony Nguyen

Art Unit  
2854



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Dec 26, 2001
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-4, 6, 8-16, and 18-21 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 11-16 and 18-20 is/are allowed.
- 6)  Claim(s) 1-4, 6, and 8-10 is/are rejected.
- 7)  Claim(s) 21 is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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***Claim Objections***

Claim 2 is objected to because there is no proper antecedent basis for "said means" (line 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6 and 8-10 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over each of the patents to Frick (US 3,747,735) and Otsubo (JP 404,358,869).

Each of the patents to Frick and Otsubo teaches a protective device having structure which renders obvious the structure as broadly claimed. Frick teaches a protective device 7 having a hood 8 covering a document feed path opening, and an opening 11 that allows the document 12 to be fed out as shown in Fig. 1. Otsubo teaches a protective device having a hood

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1a which covers the document feed path opening and an opening 7 for providing access to the document 5 which is just printed from a printing device as shown in Figs. 1-7 and 9 of Otsubo. Each of the patents to Frick and Otsubo fail to clearly teach the protective device against airborne particles. However, one of ordinary skill in the art would have used the protective device which reduces noise of Frick or Otsubo (soundproof protective device) for protecting dispensing devices or printers from airborne particles or dust or environmental contamination. With respect to claims 3 and 4, the protective device 7 of Frick appears to be integral part of the printer, and the device is secured by means 6 to the cover or housing 5. With respect to claim 6, the hood of Frick having an angle top portion at the numeral reference 10 in Fig. 1 of Frick. With respect to claims 8, and 9, the selection of a desired material which is transparent or dishwasher safe involves only an obvious matter of design choice based upon obvious experimentation.

Applicants' arguments filed on December 26, 2001 have been fully considered but they are not persuasive of any error in the above rejections. Applicant argues that Frick, and Otsubo, each fails to teach or suggest the protective device for dispensing devices or printers as recited. Specifically, applicant argues that Frick or Otsubo does not teach the upper portion that extends over the document feed path and an opening in the hood since Frick and Otsubo teach an environmental protection device for reducing noise from a printer. However, as explained above, Frick and Otsubo render obvious the protective device as broadly recited. Frick teaches a protective device including a hood which is an integral part of printer for covering a document

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feed path opening (the feed path is not clearly shown but the paper is fed out the access opening 11, Fig.1 of Frick). While the protective cover of Frick is used for reducing noise from the printer, one of ordinary skill in the art would have been recognized that it protects the printer from dust or environmental contamination. Also, applicant argues that the protective devices of each of the patents to Frick and Otsubo fails to teach the protective cover for airborne particles since Frick and Otsubo do not concern with environmental contamination. This argument is also not persuasive since Frick concerns with the disturbing sound (Frick, col.1 lines 23-30), and obviously, Otsubo concerns with the sound from a printer to make the protective cover as explained above. The Examiner position is that the protective cover as taught by Frick or Otsubo that can protect an environment from disturbing sound, can also protect the environment from airborne particles. Therefore, there is no apparent unobviousness in the structure as recited relative to the structure of the prior art as applied. It is believed that the rejection is proper.

### *Conclusion*

As presently advised it appears that claim 21 avoids the prior art but is objected to as depended to a rejected claim. This claim if properly rewritten overcome the objection and in independent form and to include all of the limitations of the base claim and any intervening claims would be allowable.

Claims 11-16 and 18-20 are allowed.

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Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (703) 308-2869. The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (703) 305-6619. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Au.  
AH N  
March 4, 2002

  
ANDREW H. HIRSHFELD  
PRIMARY EXAMINER